

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: MAY 01 2013

STARWOOD HOTELS & RESORTS  
WORLDWIDE ET AL.,

Plaintiff(s),

-V-

PM HOTEL ASSOCIATES, L.P. AND  
PARKER PALM SPRINGS LLP,

Defendant(s).

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13-CV-38 (KBF)

## ORDER

KATHERINE B. FORREST, District Judge:

For the reasons stated on the record at the May 1, 2013, conference, defendants' motion to dismiss under Fed. RR. Civ. P. 12(b)(1) and 12(b)(6) is GRANTED IN PART and DENIED IN PART. Specifically, the Court denies the motion to dismiss under Rule 12(b)(1); the Court has diversity jurisdiction. It grants the Rule 12(b)(6) motion to dismiss with respect to the third (fraud) and fourth (unjust enrichment) causes of action only. The remaining causes of action – for declaratory judgment (first cause of action) and breach of contract (second cause of action) – shall proceed.

The Clerk of Court is directed to close the motion at ECF No. 10.

SO ORDERED:

Dated: New York, New York  
May 1, 2013

K. B. Jones

KATHERINE B. FORREST  
United States District Judge